

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

HERIBERTO CASTRO-GUTIERREZ,

Plaintiff,

v.

DORIS L. SHOCKLEY,

Defendant.

No. 2:21-cv-1391 KJM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 3, 2021, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within thirty days. Plaintiff has filed objections to the findings and recommendations.

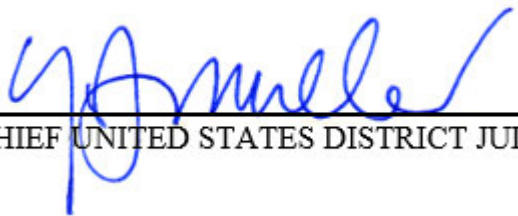
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings generally to be supported by the record and by the proper analysis. However, rather than adopt the recommendation to convert the complaint to a habeas petition, Findings and Recommendations at 2, the court finds “that the [plaintiff’s] claims must be addressed in a habeas

petition, and dismiss[es] the 1983 claims without prejudice,” to the filing of a habeas petition.  
*See Trimble v. City of Santa Rosa*, 49 F.3d 583, 586 (9th Cir. 1995).

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed September 3, 2021, are adopted in part;
2. This civil rights action under 42 U.S.C. § 1983 is dismissed without prejudice; and
3. The Clerk of the Court is instructed to close this case and enter judgment for defendant.

DATED: October 12, 2021.

  
CHIEF UNITED STATES DISTRICT JUDGE